

EXHIBIT 11

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Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

MDL No. 3084 CRB

**NOTICE OF MOTION AND MOTION TO
WITHDRAW AS COUNSEL FOR
PLAINTIFF J.H.**

This Document Relates to:

Honorable Charles R. Breyer

J.H. v. Uber Technologies, Inc., et al;
3:24-cv-03441-CRB

**NOTICE OF MOTION AND MOTION TO WITHDRAW AS COUNSEL FOR
PLAINTIFF J.H.**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD, PLEASE TAKE NOTICE
that as soon hereafter as the matter may be heard, Peiffer Wolf Carr Kane Conway and Wise,
LLP (“Peiffer Wolf”), counsel of record for Plaintiff J.H. (“Plaintiff”), moves this Court for an
order permitting its withdrawal as counsel for Plaintiff.

This Motion is made pursuant to Local Rule 11-5(a) and C. This Notice of Motion & Motion is based on the below Memorandum in Support and the accompanying Declaration of Rachel B. Abrams (“Decl.”), attached hereto as Exhibit A. A Proposed Order is attached as

1 Exhibit B.

2 **MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL**

3 Pursuant to Local Civil Rule 11-5(a) and California Rules of Professional Conduct
 4 1.16(b)(4) and 1.16(d), Peiffer Wolf submits this Memorandum of Law in support of its Motion
 5 to Withdraw as Counsel for Plaintiff J.H. Peiffer Wolf respectfully requests the Court grant the
 6 Motion.

7 **STATEMENT OF FACTS**

8 Peiffer Wolf should be permitted to withdraw as counsel for Plaintiff. An attorney may
 9 withdraw from a case by obtaining an order from the court after reasonable advance written
 10 notice has been provided to the client and to all other parties. Civ. L.R. 11-5(a); *see also* Cal.
 11 Rules Prof. Conduct 1.16(d)(1).

12 Peiffer Wolf has given appropriate advance notice of its intent to withdraw to Plaintiff
 13 beginning on November 21, 2024 and culminating with final notice on December 11, 2024.
 14 Decl. ¶¶ 4(k-1). Peiffer Wolf has also given Uber advance notice. Decl. ¶ 7. Peiffer Wolf has
 15 taken all possible steps to avoid prejudice to Plaintiff by explaining to her the possible
 16 consequences of failing to contact Peiffer Wolf or meet discovery deadlines. Decl. ¶¶ 5-6.
 17 Peiffer Wolf also submitted the limited information Peiffer Wolf did have and, upon receiving
 18 deficiencies due to not having critical information from Plaintiff, corresponded with Uber to set
 19 up Meet & Confer processes to address her case as it attempted to try to reach her. Decl. ¶¶
 20 5(g)-6. Despite those efforts, Plaintiff failed to establish useful communication with Peiffer
 21 Wolf ¶ 5. Plaintiff also failed to provide Peiffer Wolf with sufficient or adequate information to
 22 confirm her claim ¶ 6. Peiffer Wolf has thus taken all reasonable steps to avoid foreseeable
 23 prejudice to Plaintiff. Decl. ¶ 9.

24 Under California Rule of Professional Conduct 1.16(b)(4), a lawyer may withdraw from
 25 a case if “the client … renders it unreasonably difficult for the lawyer to carry out the
 26 representation effectively.” Here, Plaintiff rendered it unreasonably difficult for Peiffer Wolf to
 27 carry out the representation effectively by failing to communicate with Peiffer Wolf and failing
 28 to provide information required to prosecute her case, despite requests from Peiffer Wolf. Decl.

¶ 4(a-i). Peiffer Wolf has been unable to meet discovery deadlines in this case because, for example, this Court's PTO 5 requires that Plaintiff submit a ride receipt from Uber containing sufficient information to confirm her subject Uber ride. Moreover, despite numerous meetings and conferrals between our firm and Defendants' counsel, back and forth correspondences, and exchanges of information provided by Plaintiff, we were unable to obtain adequate or sufficient information to confirm Plaintiff's subject Uber ride. Therefore, Plaintiff's conduct falls into the express terms of Rule 1.16 regarding permissive withdrawal.

Because this motion is not accompanied by a substitution of counsel or an agreement by Plaintiff to proceed *pro se*, Peiffer Wolf agrees to the condition imposed by Local Rule 11-5(b) to serve Plaintiff with all papers in this matter, unless or until Plaintiff appears *pro se*, other counsel appears on Plaintiff's behalf, or upon further order of the Court. Decl. ¶ 10.

CONCLUSION

Peiffer Wolf respectfully requests that the Court enter an order terminating its representation of Plaintiff and allowing Plaintiff 30 days to retain new counsel.

DATED: January 8, 2025

RESPECTFULLY SUBMITTED,

BY: /S/ RACHEL B. ABRAMS

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17 *Counsel for Plaintiff*

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

14 IN RE: UBER TECHNOLOGIES, INC.,
15 PASSENGER SEXUAL ASSAULT
16 LITIGATION

MDL No. 3084 CRB

DECLARATION OF RACHEL B.
ABRAMS IN SUPPORT OF MOTION TO
WITHDRAW AS COUNSEL FOR
PLAINTIFF J.H.

17 This Document Relates to:

18 *J.H. v. Uber Technologies, Inc., et al;*
19 3:24-cv-03441-CRB

I, Rachel B. Abrams, declare:

1. I am an attorney in the law firm of Peiffer Wolf Carr Kane Conway and Wise, LLP. I am
2 admitted to practice before this Court. I make this declaration based on my own personal
3 knowledge. If called upon to testify, I could and would testify competently to the truth
4 of the matters stated herein:
2. Plaintiff J.H. has not responded to any efforts to reach her made by myself or my staff
3 since October 22, 2024. Additionally, Plaintiff J.H. has been unable to provide Peiffer
4 Wolf with adequate information to substantiate her case and fulfill her discovery

- 1 obligations.
- 2 3. Plaintiff J.H.'s failure to communicate with and provide sufficient information to our
3 firm has presented a circumstance covered by Rule 1.16(b)(4) of the California Rules of
4 Professional Conduct. We are unable to meet discovery deadlines and otherwise
5 prosecute her case without her input. It is my opinion that our withdrawal from the case
6 has become necessary.
- 7 4. Under the California Rules of Professional Conduct 1.16(d), my firm has taken all
8 reasonably available steps to avoid prejudice to the rights of Plaintiff J.H. ("Plaintiff").
- 9 5. Plaintiff has failed to properly communicate with our office throughout her
10 representation.
- 11 a. On August 29, 2023, Plaintiff retained Peiffer Wolf as legal counsel.
- 12 b. Between August 29, 2023 and June 4, 2024, Plaintiff received numerous emails,
13 text messages, telephone calls, and voice messages requesting that she contact
14 our office. These communications included two (2) unsuccessful phone calls
15 where voice messages could not be left, seven (7) unsuccessful phone calls with
16 voice messages, eight (8) unanswered text messages, and 13 unanswered e-mails.
- 17 c. During the aforementioned time period, our office and staff was in the process of
18 collecting intake information from Plaintiff about her claim.
- 19 d. Plaintiff only contacted, or responded to contact attempts by, our office on eight
20 (8) occasions during that time period.
- 21 e. On June 4, 2024, as Plaintiff's case was filed in the MDL, our office began
22 contacting Plaintiff informing her of her discovery obligations and the Plaintiff
23 Fact Sheet requirements.
- 24 f. Peiffer Wolf submitted Plaintiff's PTO 5 submission (ride receipt) and Plaintiff
25 Fact Sheet with the information provided by Plaintiff.
- 26 g. On September 5, 2024, Uber's counsel informed our firm of an inconsistency
27 between Uber's records and Plaintiff's discovery submissions.
- 28 h. Between September 6, 2024 and to this day, Plaintiff received numerous emails,

1 text messages, telephone calls, voice messages, and letters requesting that she
2 contact our office or provide requested information. These communications
3 included 14 unsuccessful phone calls where no voice messages could be left,
4 three (3) unsuccessful phone calls with voice messages, ten (10) text messages,
5 ten (10) e-mails, and two (2) letters. In these communications, we repeatedly
6 explained the need for her continued participation in the case, the risk that her
7 case may be dismissed, and that we would need to withdraw as counsel if she did
8 not contact our office.

- 9 i. During that process, our firm also conducted investigations to try and locate
10 alternative phone numbers and email addresses for Plaintiff, and even contacted
11 Plaintiff's husband via text message.
 - 12 j. Between September 6, 2024 and to this day, Plaintiff only responded to two (2)
13 contact attempts. Plaintiff has completely ceased contact with our firm since
14 October 22, 2024.
 - 15 k. On November 21, 2024, we sent Plaintiff a letter by U.S. certified mail
16 explaining that if she did not contact our firm by November 29, 2024, we would
17 choose to withdraw as counsel.
 - 18 l. On December 11, 2024, we sent Plaintiff formal notice by U.S. certified mail
19 notifying her that we were withdrawing from her case.
- 20 6. Plaintiff has failed to provide our firm with appropriate information to substantiate her
21 claim and fulfill her discovery obligations.
- 22 a. On September 5, 2024, Uber's counsel informed our firm of an inconsistency
23 between Uber's records and Plaintiff's discovery submissions.
 - 24 b. Plaintiff's ride receipt could not be confirmed or substantiated.
 - 25 c. On September 25, 2024, after numerous unsuccessful attempts to contact
26 Plaintiff, our firm submitted additional information obtained from Plaintiff's file
27 to Uber, aiming to clarify facts in Plaintiff's case and aid in Uber's substantiation
28 of Plaintiff's subject Uber ride.

- 1 d. On October 3, 2024, Uber's counsel and my associate met and conferred about
- 2 Plaintiff's claim and the subject Uber ride.
- 3 e. On October 9, 2024, our firm submitted additional information to Defendants
- 4 regarding the subject Uber ride.
- 5 f. On October 22, 2024, Plaintiff responded to our firm's phone calls and e-mails,
- 6 and provided a variety of information to help substantiate her subject Uber ride.
- 7 g. Between September 5, 2024 and October 22, 2024, Plaintiff had failed to
- 8 respond to (8) phone calls, three (3) voice messages, seven (7) text messages,
- 9 and four (4) emails about this matter.
- 10 h. On October 24, 2024, Uber's counsel and my associate met and conferred a
- 11 second time about Plaintiff's claim and the subject Uber ride, and discussed
- 12 additional information provided by Plaintiff.
- 13 i. Despite the foregoing, neither Defendants nor our firm was able to substantiate
- 14 or confirm Plaintiff's claim and the subject Uber ride.
- 15 j. Plaintiff ceased contact with our firm since October 22, 2024, despite receiving
- 16 six (6) phone call, three (3) text messages, six (6) emails, and two (2) letters
- 17 since that date.
- 18 k. In these communications during this time period, we repeatedly explained the
- 19 need for her continued participation in the case, the risk that her case may be
- 20 dismissed, and that we would need to withdraw as counsel if she did not contact
- 21 our office and provide adequate information to confirm her claim and subject
- 22 Uber ride.
- 23 7. On December 11, 2024, we sent Uber advance notice of our intent to withdraw from
- 24 Plaintiff's representation.
- 25 8. To date, Plaintiff has not agreed to voluntarily dismiss her claims and has not informed
- 26 our firm that alternative counsel has been retained.
- 27 9. Our withdrawal from this case will not impact the timing or schedule of this litigation,
- 28 and we have taken all reasonable steps possible to avoid prejudice to Plaintiff by

1 informing her of her options and the consequences of failing to comply with case
2 deadlines.

3 10. I understand that pursuant to Local Rule 11-5(b), leave to withdraw may be conditioned
4 on our firm continuing to accept papers to forward to the client. We are able to accept
5 this responsibility.

6 Executed this 8th day of January, 2025 in San Francisco, California.

7 /s/ Rachel B. Abrams

8 Rachel B. Abrams

9 *Counsel for Plaintiff*

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2 **UNITED STATES DISTRICT COURT**
3 **NORTHERN DISTRICT OF CALIFORNIA**
4 **SAN FRANCISCO DIVISION**

5
6 IN RE: UBER TECHNOLOGIES, INC.,
7 PASSENGER SEXUAL ASSAULT
8 LITIGATION

9 MDL No. 3084 CRB

10 **[PROPOSED] ORDER GRANTING**
11 **MOTION TO WITHDRAW AS COUNSEL**
12 **FOR PLAINTIFF J.H.**

13 This Document Relates to:

14 *J.H. v. Uber Technologies, Inc., et al;*
15 3:24-cv-03441-CRB

16 This matter comes before the court on the Motion of Peiffer Wolf Carr Kane Conway
17 and Wise, LLP (“Peiffer Wolf”) to withdraw as counsel for Plaintiff J.H. in the above-captioned
18 case pursuant to Local Rule 11-5 and California Rules of Professional Conduct 1.16(b)(4) and
19 1.16(d).

- 20 1. Peiffer Wolf’s Motion is GRANTED. Peiffer Wolf and its attorneys are terminated
21 as counsel of record for Plaintiff J.H.
22 2. Pursuant to Local Rule 11-5(b) Peiffer Wolf is ordered to serve all notices, papers, or
23 pleadings on Plaintiff by regular mail until such time as this Plaintiff appears *pro se*
24 or counsel appear on her behalf.

25 **IT IS SO ORDERED.**

26 Dated: _____

27 _____
28 HON. CHARLES R. BREYER
 United States District Court Judge